

Application No.: 09/888,286
Amendment dated: November 20, 2003
Reply to Office Action of: May 20, 2003

REMARKS

This amendment is responsive to the Office Action dated May 20, 2003.

The claims pending in this case are 24-49, all of which stand rejected under 35 U.S.C. § 103, on the basis of Barr et al. ('530) in view of Roberts et al. ('553) and additional references for dependent claims. Reconsideration is respectfully requested on the basis of the considerations set forth below.

Generally, the claimed invention involves a card or ticket bearing a telephone number for gaining access to certain operations of a specific telephone processing format. The card or ticket has unique identification data for accessing certain operations of the specific telephone processing format and also serving as a consumable key to avoid excessive use. Furthermore, a concealing layer covers at least part of the unique identification data. Still further, machine readable data is provided to establish a correlation and at least certain of the unique identification data and another unconcealed indicia is also provided.

Turning to the Barr patent, cards are disclosed bearing telephone numbers which are generally concealed and which may be used to access an operator or message means. With regard to an operator, see col. 3, lines 21, 30, 33 and 37. Similarly for example, record messages are indicated in Barr at col. 3, lines 4 and 29; and col. 6, lines 9, 30 and 43. As disclosed in the reference, a caller is either informed of a loss or a win. * The system is void of a "specific telephone processing format" or any selectivity for accessing such a "format" or "certain operations of said specific telephone processing format." *

It is noteworthy that in the Barr disclosure, the ultimate objective is to conceal telephone numbers. On the contrary, Applicant's system is unconcerned with regard to the accessibility of the printed "telephone number data."

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Although the Barr disclosure mentions a “mystery number” (col. 3, line 19) the mystery number again is a telephone number (col. 3, line 17), which is used by an operator for a second level connection and a taped message (col. 3, lines 23-28). The second number (800-123-9000) is a telephone number common for all winners and accordingly certainly, not “unique identification data” with respect to each winner. Furthermore, the base substrate of Barr is void of “another unconcealed indicia” (claim 24).

To summarize with respect to Barr, the telephone numbers of Barr do not enable “access to at least certain operations of said specific processing format” or any processing format;

Barr carries no unique identification data nor does any data of Barr enable “access to certain operations of said specific telephone processing format”; nor does it serve as a “consumable key”;

Not only does Barr not carry a “unique identification data” but furthermore the covering means of Barr (22 and 32) cover telephone numbers;

Again, Barr discloses no “unique identification data” nor such data for “verification,” “correlation,” or “processing.”

Turning to Roberts et al. (‘553), a system is disclosed for printing through an opaque overlay, without remnant evidence to enable lottery tickets to be generic until immediately before sale. Printer terminals, as terminal 18, operate with a central computer system 79 through a communications system 72 (col. 7, lines 24-26). As disclosed, communication is through telephone lines (col. 7, line 26). Presumably, such telephone lines are dedicated or otherwise accessed through the lottery system control 32 (Figure 1, col. 3, line 64). In any event, the reference is void of any suggestion of “telephone number data” printed on a card or ticket and accordingly is void of such a number having the capability to access a “specific telephone processing format.”

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The ticket 10 of Roberts is disclosed with a serial number 14 (col. 2, line 21; col. 3, lines 34 and 48; and so on) along with a represented form as a bar code 16 (col. 3, line 37). In both instances, the representations are unconcealed and visible. That is, there is no concealing layer over the serial numbers. However, it is acknowledged that the serial numbers are substantially unique (col. 8, line 35).

Quite significantly, the opaque overlay disclosed in the Roberts reference is not applied to the serial number. Consequently, there is a total failure to disclose “a concealing layer over at least a portion of the unique identification data.” Rather, the concealing layer is applied to the value of the ticket, i.e., a win or loss. Also, the serial number apparently addresses a data format 78 (col. 7, line 52) however, it is not “entered by a caller.”

Essentially, Roberts fails to suggest Applicant’s system and furthermore, the inclusion of Barr adds nothing of substance. To summarize, initially consider Roberts alone.

In the final analysis, in relation to Applicant’s claims, Roberts discloses a lottery ticket carrying a serial number 14 and a representative bar code 16 along with an opaque overlay concealing the ticket value. Apparently, the ticket serial number serves to address a data storage device 76 (Figure 5) and specifically a data format 78. The ticket does not have a telephone number printed thereon, much less a telephone number to gain access to a specific telephone processing format. The reference does disclose serial numbers on the ticket; however, the serial numbers serve functions quite distinct from those specified in Applicant’s claims and more expressly are not in any way concealed as specified by Applicant’s claims. Consequently, Applicant’s product is clearly distinct physically, philosophically and functionally. In that regard, consider In re Gulack, 703 F. 2d 1381, 217 U.S.P.Q. 401 (Fed. Cir. 1983), as cited in the Office Action.

The Gulack case did not involve data to be processed by a machine. Rather, it involved a substrate whose indicia were useful only to the human mind. The substrate there was the only structure for which the printed indicia were relevant and accordingly the court examined the functional relationship of the indicia to the substrate. In the present case, the data are for

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processing by a telephonic-interface control system so the relationship of the data to the control system must be considered.

The statements in Gulack regarding the functional relationship between printed matter and a substrate have no bearing in the present case. Moreover, those statements were mere dicta.

Data printed on a product that are to be processed by a machine may not be ignored as “printed matter” even if the machine itself is not positively recited, see In re Jones, 373 F. 2d 1007, 1013, 153 U.S.P.Q. 77, 82 (C.C.C.A 1967).

In the present case, the unique identification data on the product are processed by machine, a telephonic-interface control system. In Jones, the operation of the machine is controlled by the data the data printed on a substrate and accordingly, that aspect is entitled to be claimed. Applicant relies on the functional relationship between the printed matter and the telephonic-interface control system, see In re Lowry, 32 F. 3d 1579, 1583, 32 U.S.P.Q. 2d 1031, 1034 (Fed. Cir. 1994).

In summary, the physically distinct structure of Applicant’s product as claimed is patentable, involving the distinctions of: unobscured telephone number data and obscured unique identification data. The claim further specifying numerous distinctions involving machine processing of data.

In view of the distinctions from Roberts, consider Barr. It is respectfully submitted that one seeking to combine Barr with Roberts would print the telephone numbers of Barr under the concealing layer of Roberts. In such a combination, the telephone numbers would access an operator or a message indicating value or the lack thereof. Consequently, the serial numbers of Roberts would be useless. Furthermore, the combination still lacks any suggestion of a concealing layer over unique identification data to afford the structural, philosophical and functional distinction of Applicant’s product.

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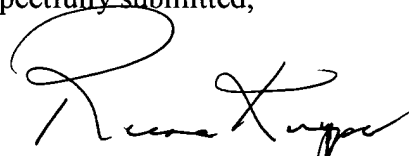
It is respectfully submitted that claim 24 specifies a patentable combination over the applied references of Roberts and Barr. The distinctions pointed out above also appear in the remaining claims of the case, some of which contain further distinctions. On that basis, reconsideration is respectfully requested.

Concerning Goldman et al. ('708), a lottery ticket is described in which the lottery number is obscured and the serial number is apparent. Again, the distinctions as treated above are applicable.

Further claimed distinction meriting comment appears in claim 25. Specifically, reference is to the symbolic graphic representation "indicating a name or a theme relating to the format." Specifically, reference is to the "California Classic" (Figure 2). In view of the above comments and considerations, Examiner's reconsideration is respectfully requested.

Respectfully submitted,

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